

DISTRICT COURT, DENVER COUNTY, COLORADO 1437 Bannock Street Denver, Colorado 80202 <hr/> STATE OF COLORADO, ex rel. JOHN W. SUTHERS, ATTORNEY GENERAL, Plaintiff, v. XENTEL, INC., a Delaware corporation, and XENTEL AMERICA, INC., a Delaware corporation, Defendants.	FILED Document CO Denver County District Court 2nd JD Filing Date: Aug 29 2006 4:44PM MDT Filing ID: 12221578 Review Clerk: Tina Brown ▲ COURT USE ONLY ▲
Attorneys for Plaintiff: JOHN W. SUTHERS Attorney General AMY L. PADDEN, 28372* Assistant Attorney General JAN M. ZAVISLAN, 11636 Deputy Attorney General 1525 Sherman Street, 5 th Floor Denver, CO 80203 (303) 866-5079 (303) 866-4916 Fax *Counsel of Record	Case No.:
COMPLAINT	

Plaintiff, the State of Colorado, upon relation of John W. Suthers, Attorney General for the State of Colorado, by and through undersigned counsel, states and alleges as follows:

INTRODUCTION

1. This is an action brought by the State of Colorado pursuant to the Colorado Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-101 through 6-16-113 (2005) (“CCSA”), the Colorado No-Call List Act, Colo. Rev. Stat. §§ 6-1-901 through 6-1-908 (2005) (“the No-Call Act”), and the Colorado Consumer Protection Act, Colo. Rev. Stat. §§ 6-1-101 through 6-1-115 (2005) (“CCPA”), to enjoin and restrain Defendants from engaging in certain acts of charitable fraud and unlawful deceptive trade practices, for statutorily

mandated civil penalties, for disgorgement, for restitution, and for other relief as provided in the CCSA, the No-Call Act, and the CCPA.

PARTIES

2. John W. Suthers is the duly appointed Attorney General of the State of Colorado and is authorized under Colo. Rev. Stat. § 6-1-103 (2005) to enforce the provisions of the CCPA, the CCSA and the No-Call Act.

3. Defendant Xentel, Inc. (“Xentel”) is a Delaware corporation incorporated on or about February 9, 1999, with a principal place of business in Fort Lauderdale, Florida and a solicitation office in Denver, Colorado. Xentel is a for-profit telemarketing corporation that solicits donations on behalf of various charities and non-profit organizations and retains a substantial portion of such solicitations as its fee.

4. Defendant Xentel America, Inc. (“Xentel America”) is a Delaware corporation incorporated on or about September 24, 2003, with a principal place of business Milwaukee, Wisconsin, and with a solicitation office in Denver, Colorado. Xentel America is a for-profit telemarketing corporation that solicits donations on behalf of various charities and non-profit organizations and retains a substantial portion of such solicitations as its fee. Xentel America acquired another telemarketing company, called American Trade and Convention Publications, Inc. (“American Trade”), in late 2003. American Trade had three solicitation campaigns registered in Colorado. The contracts for each of these campaigns were assigned to Xentel America. Xentel America is liable for any statutory violations with respect to these campaigns.

JURISDICTION AND VENUE

5. Pursuant to Colo. Rev. Stat. § 6-1-110(1), this Court has jurisdiction to enter appropriate orders prior to and following an ultimate determination of liability.

6. The violations alleged herein were committed throughout the state of Colorado, with a substantial number of calls made to residents of Denver County, Colorado. Therefore, venue is proper in Denver County, Colorado, pursuant to Colo. Rev. Stat. § 6-1-103 and Colo. R. Civ. P. 98.

RELEVANT TIMES

7. The conduct that gives rise to the claims for relief contained in this Complaint began in 2002 and continues through the present.

8. This action is timely brought pursuant to Colo. Rev. Stat. § 6-1-115 in that it is brought within three years of the date on which false, misleading, and deceptive acts or

practices occurred and/or were discovered, and the series of false, misleading, and deceptive acts is continuing.

PUBLIC INTEREST

9. Through the unlawful practices of their business, vocation, or occupation, Defendants have deceived, misled, and financially injured consumers in Colorado. Specifically, Defendants have solicited money from Coloradans through the use of illegal and unregistered solicitation campaigns and have repeatedly violated the Colorado Charitable Solicitations Act and other consumer protection statutes. Therefore, the Colorado Attorney General believes these legal proceedings are in the public interest and are necessary to safeguard citizens from Defendants' charitable fraud and unlawful business activities.

STATUTORY BACKGROUND

A. The Colorado Charitable Solicitations Act

10. The Colorado Charitable Solicitations Act was passed by the legislature after it found that "fraudulent charitable solicitations are a widespread practice in this state which result in millions of dollars of losses to contributors and legitimate charities each year" and that "the goodwill and confidence of contributors continually is being undermined by the practices of unscrupulous solicitors." Colo. Rev. Stat. § 6-16-102. Accordingly, the legislature declared that the provisions of the Act, "including those involving disclosures to be made by paid solicitors, are necessary to protect the public's interest in making informed choices as to which charitable causes should be supported." *Id.*

11. The notices and reports that paid solicitors and charities are required to file under the Act are publicly available on the Colorado Secretary of State's website. These documents allow consumers to examine information regarding solicitation campaigns and the expenditure of contributions, including the percentages of contributions that will be retained by paid solicitors such as Defendants. These documents help consumers determine whether a paid solicitor will retain 10% or 50% or 90% of their donations, thus allowing consumers to make informed choices regarding charitable donations.

12. The Act defines a "paid solicitor" as a "person who, for monetary compensation, performs any service in which contributions will be solicited in this state by such compensated person or any compensated person he or she employs, procures, or engages, directly or indirectly, to solicit for contributions." *Id.* § 6-16-103(7).

13. Under the Act, all paid solicitors, such as Defendants, must register prior to soliciting any contributions in Colorado on behalf of a charity. *Id.* § 6-16-104.6. All contracts between a paid solicitor and a charitable organization must be in writing and contain the information set forth in section 6-16-104.6(2), including the specified minimum

percentage, if any, of the gross receipts from contributions that will be remitted to the charitable organization.

14. At least fifteen days before commencing any solicitations on behalf of a charity in Colorado, a paid solicitor must file a solicitation notice with the Secretary of State that contains all the information required by Colo. Rev. Stat. § 6-16-104.6(7) and that is accompanied by a certification from an officer of the charity stating that the information in the notice is true and complete to the best of his or her knowledge. This notice is required to include a summary of the contract between the charity and the paid solicitor, including relevant payment terms. Under the system set up by the Secretary of State pursuant to the Act, the solicitation notice is submitted on line by the paid solicitor and then is signed electronically by the charity.

15. No later than ninety days after the conclusion of a solicitation campaign, and on the anniversary of the commencement of a solicitation campaign lasting more than one year, a paid solicitor must file a financial report for the campaign that includes the gross proceeds and itemization of all expenses and disbursements from the solicited funds. The report must be signed by authorized officials of the charity and of the paid solicitor who shall certify that the report is true and complete to the best of their knowledge. *Id.* § 6-16-104.6(9). The paid solicitor submits and signs electronically the report on the Secretary of State's website, and the charity then signs it electronically. This information helps consumers determine where their contributions go once they have been collected by the paid solicitor.

16. The Charitable Solicitations Act prohibits "charitable fraud" which is committed when a person:

(a) Knowingly solicits any contribution and in the course of such solicitation knowingly performs any act or omission in violation of any of the provisions of sections 6-16-104 to 6-16-107 and 6-16-110;

...

(f) Knowingly makes a misrepresentation of a material fact in notice, report, or record required to be filed, maintained, or created by this article;

...

Id. § 6-16-111(1).

17. Any violation of the CCSA is a deceptive trade practice in violation of the Colorado Consumer Protection Act. *Id.* § 6-16-111(5).

B. The No-Call Act

18. The Colorado No-Call Act, Colo. Rev. Stat. §§ 6-1-901 through 6-1-908 (2005), was enacted in 2001 and took effect on July 1, 2002. The purpose of the law is to protect the residential privacy of Colorado consumers from commercial telephone and fax solicitations. The law permits residential telephone and wireless subscribers to add their residential telephone, wireless, and fax numbers to the Colorado No-Call List.

19. The law prohibits any person or entity from making telephone solicitations to any residential subscriber who has added his or her telephone, wireless, or fax number to the No-Call List. *Id.* § 6-1-904(1)(a).

20. The No-Call Act exempts solicitation calls made on behalf of charities, but does so only if the applicable provisions of the Charitable Solicitations Act are followed. *Id.* § 6-1-903(10)(b)(IV).

21. Any violation of the No Call Act is a deceptive trade practice under the CCPA. *Id.* § 6-1-906(1). However, no state enforcement action may be brought against any entity that commits less than three violations per month. *Id.*

C. The Consumer Protection Act

22. The Colorado Consumer Protection Act (CCPA) prohibits deceptive trade practices as set forth in the statute. *Id.* § 6-1-105.

23. As noted above, violations of the CCSA and the No-Call Act are deceptive trade practices under the CCPA and subject the violator to the CCPA's penalties. *Id.* §§ 6-1-105(hh), (tt), 6-1-906(1), 6-16-111(5).

GENERAL ALLEGATIONS

24. Defendants are in the business, vocation, and occupation of professionally soliciting contributions for charities.

25. In the past calendar year, Colorado consumers donated nearly \$165 million dollars to charities. http://www.sos.state.co.us/pubs/bingo_raffles/2005_annual_report_12-7-2005.pdf. According to the Secretary of State, less than half of that money ultimately reached the charities to which the money was donated. *Id.*

26. Unfortunately, an even smaller percentage of the funds solicited by Defendants ultimately ends up in the hands of the charities that hire them. The contracts that Defendants have with various charities in Colorado typically provide that those charities will

receive only 10 to 15 percent of the monies solicited from Colorado donors. The remaining 85 to 90 percent of the donated money is retained by Defendants.¹

27. In 2005, Defendant Xentel collected \$4.41 million from Colorado donors for the eight campaigns it conducted. http://www.sos.state.co.us/pubs/Bingo_Raffles/CCSAA_report_2004-2005.pdf, table 2. Of those millions, it provided just \$598,000—16.6%—to the charities that hired it to conduct the solicitations. *Id.* In 2005, Defendant Xentel America collected \$1.84 million from Colorado donors for the four campaigns it conducted. *Id.* It provided only \$223,000—just 10.88%—of that money to the charities on whose behalf it solicited the contributions. *Id.*

Xentel's Untimely Solicitation Registrations and Illegal Solicitations

28. Since May 2002, Defendant Xentel has registered and has conducted, or is in the process of conducting, forty-six solicitation campaigns on behalf of various charities in the state of Colorado. Only three of the registrations for any of these campaigns were filed fifteen days prior to commencing the campaign as required by Colo. Rev. Stat. § 6-16-104.6(7). The other forty-three were untimely.

29. Through the twenty of those forty-six campaigns that have been concluded and for which Xentel has filed complete campaign reports, Xentel has collected a total of \$13,791,264 from Colorado donors, while the charities that Xentel represents have received only \$2,163,514. Xentel continues to collect money from Colorado donors through its remaining open campaigns.

30. With respect to its concluded campaigns, Xentel has failed to file eighteen campaign reports within ninety days as required by Colo. Rev. Stat. § 6-16-104.6(9). Additionally, Xentel has failed to obtain the signatures of the charities by the deadline on four other campaign reports.

31. Xentel has violated the CCSA and has committed charitable fraud as defined by Colo. Rev. Stat. § 6-16-111(5). Specifically, Xentel has: (i) failed to register solicitation campaigns fifteen days prior to commencing the campaign; (ii) conducted solicitations during time periods in which it did not have a registered solicitation campaign; and (iii) failed to file campaign reports in a timely manner.

32. Further, because Defendant and the charities on whose behalf it conducted the solicitations did not comply with the CCSA at the times that Defendant solicited certain

¹ While this is not illegal in and of itself, it is illegal to fail to comply with the requirements of the CCSA. Among other things, the CCSA helps consumers make informed decisions about how to donate funds wisely.

contributions in Colorado, and because it telephoned consumers who were listed on Colorado's No-Call list during those times, Defendant violated the No-Call Act.

33. A chart summarizing the information regarding the violations described herein is attached hereto as Exhibit A.

A. Xentel's Illegal Solicitation Campaign on Behalf of the American Foundation for Children with AIDS.

34. On August 22, 2005, Defendant initiated a solicitation campaign on behalf of the American Foundation for Children with AIDS. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until August 23, 2005—a day after it began the campaign. Further, the notice filed on August 23, 2005 was not accompanied by a certification statement from the charity, as required by Colo. Rev. Stat. § 6-16-104.6(7), until September 19, 2005—nearly a month after Defendant began the campaign.

35. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

B. Xentel's Illegal Solicitation Campaign on Behalf of AMVETS

36. On August 15, 2005, Defendant initiated a solicitation campaign on behalf of AMVETS. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until August 31, 2005—two weeks after it began the campaign. Further, the notice filed on August 31, 2005 was not accompanied by a certification statement from the charity, as required by Colo. Rev. Stat. § 6-16-104.6(7). That certification was not filed until October 20, 2005—two months after Defendant began the campaign.

37. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

38. On August 15, 2006, Defendant initiated a second solicitation campaign on behalf of AMVETS. Defendant failed to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), and did not file the registration until August 3, 2005—twelve days before it began the campaign. However, the notice filed on August 3, 2005 was neither signed nor paid for by Xentel. To date, this solicitation notice remains incomplete.

39. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

C. Xentel's Illegal Solicitation Campaign on Behalf of Cancer Recovery Foundation of America

40. On October 1, 2005, Defendant initiated a solicitation campaign on behalf of the Cancer Recovery Foundation of America. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until January 20, 2006—more than three-and-a-half months after it began the campaign.

41. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

D. Xentel's Illegal Solicitation Campaign on Behalf of the Children's Leukemia Research Association, Inc.

42. On July 1, 2005, Defendant initiated a solicitation campaign on behalf of the Children's Leukemia Research Association, Inc. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until August 5, 2005—more than a month after it began the campaign.

43. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

44. On August 25, 2006, Defendant initiated a second solicitation campaign on behalf of the Children's Leukemia Research Association, Inc. Defendant failed to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), and did not file the registration until August 18, 2006—a week before it began the campaign.

45. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

E. Xentel's Illegal Solicitation Campaign on Behalf of the Colorado Jaycees

46. On July 1, 2005, Defendant initiated a solicitation campaign on behalf of the Colorado Jaycees. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until August 3, 2005—more than a month after it began the campaign. Further, that solicitation notice was rejected on August 23, 2005 because it did not provide the information required by the Secretary of State. Revised notices were also rejected on October 24, 2005, and December 6, 2005. Xentel did not file a complete solicitation notice for this campaign until August 3, 2006—more than a year after it started the campaign.

47. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

48. This campaign concluded on February 8, 2006. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was May 9, 2006. Xentel did not comply with this requirement and to date has not filed a campaign report.

49. On July 15, 2006, Defendant initiated a second solicitation campaign on behalf of the Colorado Jaycees. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until August 16, 2006—more than a month after it began the campaign.

50. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

F. Xentel's Illegal Solicitation Campaign on Behalf of the Colorado Law Enforcement Officers' Association

51. On August 5, 2006, Defendant initiated a solicitation campaign on behalf of the Colorado Law Enforcement Officer's Association. Defendant failed to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), and did not file the registration until July 28, 2006—one week before it began the campaign.

52. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

G. Xentel's Illegal Solicitation Campaign on Behalf of the Colorado Peace Officer's Foundation

53. On May 30, 2005, Defendant initiated a solicitation campaign on behalf of the Colorado Peace Officer's Foundation. Defendant failed to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7) and did not file the registration until May 26, 2005—four days before it began the campaign. Further, the notice filed on May 26, 2005 was not accompanied by a certification statement from the charity, as required by Colo. Rev. Stat. § 6-16-104.6(7), until June 21, 2005—3 weeks after Defendant began the campaign.

54. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

55. This campaign concluded on May 30, 2006. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was August 28, 2006. Xentel did not comply with this requirement and, to date, no campaign report has been filed.

H. Xentel's Illegal Solicitation Campaign on Behalf of the Colorado State Fire Fighters Association

56. On April 15, 2005, Defendant initiated a solicitation campaign on behalf of the Colorado State Fire Fighters Association. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until September 19, 2005—five months after it began the campaign, and after Xentel had been fired by CSFFA because of complaints CSFFA received regarding Xentel, after the campaign had been concluded, and after the Attorney General had already served Xentel with investigatory subpoenas.²

² Xentel completely ignored the first subpoena served on it by the Attorney General and provided no response whatsoever. The Attorney General was required to file a petition to enforce the subpoena, which was granted by this Court, and Xentel was ordered to pay attorneys fees and costs. *State v. Xentel, Inc.*, Civ. Action No. 05CV5591 (Denver Dist. Ct.).

57. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

58. This campaign concluded on July 31, 2005. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was October 29, 2005. Xentel did not comply with this requirement and failed to file a campaign report until November 4, 2005. That report was not signed by the charity until November 7, 2005.

I. Xentel's Illegal Solicitation Campaigns on Behalf of Colorado Vietnam Veterans, Inc.

59. On July 1, 2005, Defendant initiated a solicitation campaign on behalf of Colorado Vietnam Veterans, Inc. Defendant failed to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7) and did not file the registration until June 29, 2005—just two days before it began the campaign. Further, the notice filed on June 29, 2005 was not accompanied by a certification statement from the charity, as required by Colo. Rev. Stat. § 6-16-104.6(7), until August 3, 2005—more than a month after Defendant began the campaign.

60. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

61. This campaign concluded on December 31, 2005. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was March 31, 2006. Xentel did not comply with this requirement and failed to file a campaign report until April 9, 2006. That report was not signed by the charity until May 16, 2006.

62. On January 1, 2006, Defendant initiated a second solicitation campaign on behalf of Colorado Vietnam Veterans, Inc. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until January 10, 2006—nine days after it began the campaign.

63. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

J. Xentel's Illegal Solicitation Campaigns on Behalf of the Committee for Missing Children, Inc.

64. On July 1, 2002, Defendant initiated a solicitation campaign on behalf of the Committee for Missing Children, Inc. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until July 17, 2002—more than two weeks after it began the campaign.

65. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

66. This campaign concluded on June 30, 2003. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was September 28, 2003. Although Xentel filed a campaign report on August 29, 2002 (which was only two months after the campaign began and many months before the campaign concluded, calling into question how Xentel could provide accurate information regarding the donations collected and proceeds to the charity), that notice was not signed by the charity until January 7, 2004—three-and-a-half months after the deadline.

67. On July 1, 2003, Defendant initiated a second solicitation campaign on behalf of the Committee for Missing Children, Inc. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until July 10, 2003—more than a week after it began the campaign.

68. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

69. This campaign concluded on February 29, 2004. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was May 29, 2004. Xentel did not comply with this requirement and failed to file a campaign report until June 2, 2004. That report was not signed by the charity until June 3, 2004.

70. On June 2, 2004, Defendant initiated a third solicitation campaign on behalf of the Committee for Missing Children, Inc. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-

104.6(7), but Defendant did not file the registration until June 4, 2004—two days after it began the campaign.

71. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

72. On July 1, 2005, Defendant initiated a fourth solicitation campaign on behalf of the Committee for Missing Children, Inc. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), Defendant did not file the registration until August 5, 2005—more than a month after it began the campaign.

73. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

74. On August 5, 2006, Defendant initiated a fifth solicitation campaign on behalf of the Committee for Missing Children, Inc. Defendant failed to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), Defendant did not file the registration until August 3, 2006—two days before it began the campaign.

75. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

K. Xentel's Illegal Solicitation Campaign on Behalf of El Jebel Shrine

76. On November 18, 2002, Defendant initiated a solicitation campaign on behalf of El Jebel Shrine. Defendant failed to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), and instead filed the registration on November 13, 2002—only five days before Defendant began the campaign.

77. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

78. This campaign concluded on March 30, 2003. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was June 28, 2003. Xentel did not comply with this requirement and did not file a campaign report until July 2, 2003. Xentel failed to obtain the signature of the charity for this report as required by statute and, to date, this report is incomplete for that reason.

L. Xentel's Illegal Solicitation Campaigns on Behalf of the Fraternal Order of Police Colorado Metroplex

79. Defendant conducted a campaign on behalf of the Fraternal Order of Police Colorado Metroplex for the period of December 14, 2001 through May 11, 2002. From May 12, 2002 through June 30, 2002, Xentel did not have a registered campaign on behalf of the Fraternal Order of Police Colorado Metroplex. Nonetheless, it illegally called and solicited donations on behalf of the Fraternal Order of Police Colorado Metroplex from more than 275 Colorado citizens during that time. Each one of those calls was made in violation of the CCSA. The donations collected from these illegal solicitation calls totaled more than \$28,000.

80. On July 1, 2002, Defendant initiated a second solicitation campaign on behalf of the Fraternal Order of Police Colorado Metroplex. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until December 23, 2002—more than five-and-a-half months after it began the campaign.

81. The solicitation campaign that began on July 1, 2002 concluded on May 31, 2003. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was August 29, 2003. Xentel did not comply with this requirement and failed to file a campaign report until October 20, 2003—nearly two months after the deadline.

82. From June 1, 2003 through June 30, 2003, Xentel did not have a registered campaign on behalf of the Fraternal Order of Police Colorado Metroplex. Nonetheless, it illegally called and solicited donations on behalf of the Fraternal Order of Police Colorado Metroplex from more than 5500 Colorado citizens during that time. Each one of those calls was made in violation of the CCSA. The donations collected from these illegal solicitation calls totaled more than \$190,000.

83. Of the more than 5500 residents who were illegally called from June 1, 2003 to June 30, 2003, more than 2800 were on the No-Call list at the time the calls were made. Xentel made more than three calls in a month to Colorado consumers who were on the No-Call list. Each of these calls was in violation of the No-Call Act, the CCSA, and the CCPA.

84. On July 1, 2003, Defendant initiated a third solicitation campaign on behalf of the Fraternal Order of Police Colorado Metroplex. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until July 10, 2003—nine days after it began the campaign.

85. The solicitation campaign described in the paragraph above concluded on June 1, 2004. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was August 30, 2004. Xentel did not comply with this requirement and failed to file a campaign report until August 31, 2004. This report was not signed by the charity until September 30, 2004—a month after the deadline.

86. From June 2, 2004 through April 17, 2005, Xentel did not have a registered campaign on behalf of the Fraternal Order of Police Colorado Metroplex. Nonetheless, it illegally called and solicited donations from more than 23,000 Colorado citizens during that time. Each one of those calls was made in violation of the CCSA. The donations collected from these illegal solicitation calls totaled over \$730,000.

87. Of the more than 23,000 residents who were illegally called from June 2, 2004 to April 17, 2005, more than 9,000 were on the No-Call list at the time the calls were made. Xentel made more than 3 calls in a month to Colorado consumers who were on the no-call list. Each of these calls was in violation of the No-Call Act, the CCSA, and the CCPA.

88. On April 18, 2005, Defendant initiated a fourth solicitation campaign on behalf of the Fraternal Order of Police Colorado Metroplex. Although Defendant filed the registration for this campaign on January 7, 2005, it was not accompanied by a certification statement from the charity, as required by Colo. Rev. Stat. § 6-16-104.6(7), until April 11, 2005—just 7 days before Xentel began the campaign.

89. On August 22, 2005, Defendant initiated a fifth solicitation campaign on behalf of the Fraternal Order of Police Colorado Metroplex. Defendant failed to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), and did not file the registration until August 15, 2005—one week before it began the campaign. Further, the notice filed on August 15, 2005 was not accompanied by a certification statement from the charity, as required by Colo. Rev. Stat. § 6-16-104.6(7), until September 19, 2005—almost a month after Xentel began the campaign.

M. Xentel's Illegal Solicitation Campaigns on Behalf of the Fraternal Order of Police, Northern Colorado Lodge #3

90. On May 22, 2002, Defendant initiated a solicitation campaign on behalf of Fraternal Order of Police, Northern Colorado Lodge #3. Not only did Defendant fail to

register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until August 29, 2002—more than three months after it began the campaign.

91. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

92. This campaign concluded on May 21, 2003. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was August 19, 2003. Xentel did not comply with this requirement and failed to file a campaign report until October 20, 2003. That report was not signed by the charity until January 15, 2004—nearly five months after the deadline.

93. On July 1, 2003, Defendant initiated a second solicitation campaign on behalf of Fraternal Order of Police, Northern Colorado Lodge #3. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until November 20, 2003—more than four-and-a-half months after it began the campaign.

94. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

95. This campaign concluded on June 20, 2004. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was September 18, 2004. Xentel did not comply with this requirement and failed to file a campaign report until January 7, 2005—more than three months after the deadline.

96. On September 1, 2004, Defendant initiated a third solicitation campaign on behalf of Fraternal Order of Police, Northern Colorado Lodge #3. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until January 7, 2005—more than four months after it began the campaign. Further, the notice filed on January 7, 2005 was not accompanied by a certification statement from the charity, as required by Colo. Rev. Stat. § 6-16-104.6(7), until March 30, 2006—more than one-and-a-half years after Defendant began the campaign.

97. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These

calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

98. This campaign concluded on August 15, 2005. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was November 13, 2005. Xentel did not comply with this requirement and did not file a campaign report for this solicitation until May 3, 2006—nearly six months after the deadline. Xentel has failed to obtain the charity’s signature for this report to date and thus it remains incomplete.

99. On September 1, 2005, Defendant initiated a fourth solicitation campaign on behalf of Fraternal Order of Police, Northern Colorado Lodge #3. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), Defendant did not file the registration until September 19, 2005—more than two weeks after it began the campaign.

100. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

101. This campaign concluded on March 31, 2006. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was June 29, 2006. Although Xentel filed a campaign report for this solicitation on May 5, 2006, Xentel has failed to obtain the charity’s signature for this report to date and thus it remains incomplete.

N. Xentel’s Illegal Solicitation Campaigns on Behalf of International Law Enforcement Games, Inc.

102. On May 30, 2005, Defendant initiated a solicitation campaign on behalf of International Law Enforcement Games, Inc. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until June 1, 2005—a day after it began the campaign. Further, the notice filed on June 1, 2005 was not accompanied by a certification statement from the charity, as required by Colo. Rev. Stat. § 6-16-104.6(7), until July 15, 2005—a month and a half after Defendant began the campaign.

103. The solicitation campaign described in the paragraph above is the only solicitation campaign Xentel ever registered on behalf of International Law Enforcement Games, Inc. Nonetheless, Xentel illegally called and solicited donations from more than 9000 Colorado citizens before the date (May 30, 2005) on which Xentel claimed it began this campaign. Those illegally obtained donations totaled over \$210,000. Those illegal

solicitations began in July 2003, nearly two years before Xentel ever registered a campaign on behalf of International Law Enforcement Games, Inc. Each one of those calls was made in violation of the CCSA.

104. Of the more than 9000 residents who were illegally called, more than 5000 of them were on the No-Call list at the time of those calls. Xentel made more than three calls in a month to Colorado consumers who were on the no-call list. Each of these calls was in violation of the No Call Act, the CCSA, and the CCPA.

105. This campaign concluded on May 30, 2006. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was August 28, 2006. Xentel did not comply with this requirement and, to date, no campaign report has been filed.

O. Xentel's Illegal Solicitation Campaigns on Behalf of the Military Order of the Purple Heart

106. On July 31, 2005, Defendant initiated a solicitation campaign on behalf of the Military Order of the Purple Heart. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), Defendant did not file the registration until August 15, 2005—two weeks after it began the campaign. Further, the notice filed on August 15, 2005 was not accompanied by a certification statement from the charity, as required by Colo. Rev. Stat. § 6-16-104.6(7), until September 22, 2005—more than a month after Defendant began the campaign.

107. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

P. Xentel's Illegal Solicitation Campaigns on Behalf of the National Association Of Police Athletic/Activities Leagues, Inc.

108. On March 15, 2006, Defendant initiated a solicitation campaign on behalf of the National Association of Police Athletic/Activities Leagues, Inc. Defendant failed to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7) and did not file the registration until March 14, 2006—one day before it began the campaign.

109. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

Q. Xentel's Illegal Solicitation Campaigns on Behalf of the National Cancer Coalition, Inc.

110. On March 21, 2005, Defendant initiated a solicitation campaign on behalf of the National Cancer Coalition, Inc. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until June 22, 2005—three months after it began the campaign. Further, the notice filed on June 22, 2005 was not accompanied by a certification statement from the charity, as required by Colo. Rev. Stat. § 6-16-104.6(7), until November 7, 2005—more than seven months after it began the campaign.

111. Defendant began calling Colorado residents on February 16, 2005, more than a month before the date (March 21) that it falsely reported to the Secretary of State when it began the campaign. From February 16, 2005 to March 20, 2005, Defendant illegally called and solicited donations from more than 400 Colorado citizens. Each one of those calls was made in violation of the CCSA. The donations collected from these illegal solicitation calls totaled over \$9000.

112. Of those more than 400 residents who were illegally called, more than 250 of them were on the No-Call list at the time of those calls. Xentel made more than 3 calls in a month to Colorado consumers who were on the no-call list. Each of these calls was in violation of the No Call Act, the CCSA, and the CCPA.

113. This campaign concluded on February 28, 2006. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was May 29, 2006. Although Xentel filed a campaign report for this solicitation on May 3, 2006, Xentel has failed to obtain the charity's signature for this report to date and thus it remains incomplete.

114. On March 15, 2006, Defendant initiated a second solicitation campaign on behalf of the National Cancer Coalition, Inc. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until May 10, 2006—nearly two months after it began the campaign.

115. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

R. Xentel's Illegal Solicitation Campaigns on Behalf of the National Wheelchair Basketball Association

116. On July 1, 2002, Defendant initiated a solicitation campaign on behalf of the National Wheelchair Basketball Association. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until October 21, 2003—more than a year after it began the campaign. Further, the notice filed on October 21, 2003 was not accompanied by a certification statement from the charity, as required by Colo. Rev. Stat. § 6-16-104.6(7), until June 24, 2005—almost three years after Defendant began the campaign.

117. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

118. This campaign concluded on June 30, 2003. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was September 28, 2003. Xentel did not comply with this requirement and failed to file a campaign report until August 10, 2005—almost two years after the deadline. That report was not signed by the charity until August 15, 2005.

119. On July 1, 2003, Defendant initiated a second solicitation campaign on behalf of the National Wheelchair Basketball Association. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until October 21, 2003—more than three-and-a-half months after it began the campaign.

120. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

121. This campaign concluded on June 1, 2004. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was August 30, 2004. Xentel did not comply with this requirement and failed to file a campaign report until August 31, 2004. This report was not signed by the charity until November 19, 2004—almost two months after the deadline.

122. From June 2, 2004 through August 30, 2004, Xentel did not have a registered campaign on behalf of the National Wheelchair Basketball Association. Nonetheless, it illegally called and solicited donations from two Colorado citizens during that time, for a total of \$45 in donations. Both of those calls were made in violation of the CCSA. Further,

both of those calls were made to residents who were on the No-Call List and therefore those calls violated the No-Call Act.

123. On September 1, 2004, Defendant initiated a third solicitation campaign on behalf of the National Wheelchair Basketball Association. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until November 19, 2004—two-and-a-half months after it began the campaign. Further, the notice filed on November 19, 2004 was not accompanied by a certification statement from the charity, as required by Colo. Rev. Stat. § 6-16-104.6(7), until July 12, 2005—nearly a year after Defendant began the campaign.

124. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

125. This campaign concluded on May 31, 2005. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was August 29, 2005. Although Xentel filed a campaign report on August 17, 2005, it did not obtain the signature of the charity until September 22, 2005—three weeks after the deadline.

126. On May 31, 2005, Defendant initiated a fourth solicitation campaign on behalf of the National Wheelchair Basketball Association. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), Defendant did not file the registration until June 29, 2005—nearly a month after it began the campaign. Further, the notice filed on June 29, 2005 was not accompanied by a certification statement from the charity, as required by Colo. Rev. Stat. § 6-16-104.6(7), until July 12, 2005—a month and a half after Defendant began the campaign.

127. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

128. On October 1, 2005, Defendant initiated a fifth solicitation campaign on behalf of the National Wheelchair Basketball Association. Defendant failed to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), and did not file the registration until September 30, 2005—only one day before it began the campaign.

129. Any calls Xentel made prior to fifteen days after the date that the complete

solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

S. Xentel's Illegal Solicitation Campaign on Behalf of the United Breast Cancer Foundation

130. On April 15, 2006, Defendant initiated a solicitation campaign on behalf of the United Breast Cancer Foundation. Defendant failed to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), and did not file the registration until May 10, 2006—almost a month after it began the campaign.

131. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

T. Xentel's Illegal Solicitation Campaigns on Behalf of the United States Cerebral Palsy Athletic Association

132. On August 5, 2002, Defendant initiated a solicitation campaign on behalf of the United States Cerebral Palsy Athletic Association. Defendant failed to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), and did not file the registration until August 2, 2002—three days before it began the campaign.

133. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

134. This campaign concluded on August 4, 2003. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was November 2, 2003. Although Xentel filed a campaign report on October 21, 2003, it did not obtain the signature of the charity until December 3, 2003—a month after the deadline.

135. On December 8, 2003, Defendant initiated a second solicitation campaign on behalf of United States Cerebral Palsy Athletic Association. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant filed the registration on December 10, 2003—two days after it began the campaign.

136. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

137. This campaign concluded on December 7, 2004. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was March 8, 2005. Xentel did not comply with this requirement and failed to file a campaign report until April 12, 2005. That report was not signed by the charity until May 2, 2005—almost two months after the deadline.

U. Xentel's Illegal Solicitation Campaigns on Behalf of the Veterans Fund, Inc.

138. On April 19, 2002, Defendant initiated a solicitation campaign on behalf of the Veterans Fund, Inc. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), Defendant did not file the registration until July 24, 2002—more than three months after it began the campaign.

139. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

140. This campaign concluded on March 30, 2003. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was June 28, 2003. Xentel did not comply with this requirement and failed to file a campaign report until July 2, 2003—nine days after the deadline. This report was not signed by the charity until July 7, 2003.

141. On July 1, 2003, Defendant initiated a second solicitation campaign on behalf of the Veterans Fund, Inc. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), Defendant did not file the registration until July 10, 2003—nine days after it began the campaign.

142. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

143. This campaign concluded on June 1, 2004. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was August 30, 2004. Xentel did not comply with this

requirement and failed to file a campaign report until November 19, 2004—nearly three months after the deadline.

V. Xentel's Illegal Solicitation Campaigns on Behalf of the World Burn Foundation of America

144. On March 10, 2003, Defendant initiated a solicitation campaign on behalf of the World Burn Foundation of America. Defendant failed to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), and instead filed the registration on March 6, 2003—four days before it began the campaign.

145. Any calls Xentel made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

146. This campaign concluded on February 29, 2004. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel was required to file a campaign report within ninety days after the conclusion of the campaign, which was May 29, 2004. Xentel did not comply with this requirement and failed to file a campaign report until July 15, 2004—nearly two months after the deadline. This report was not signed by the charity until July 16, 2004.

Xentel America's Registration Status

147. Xentel America first registered as a paid solicitor with the Colorado Secretary of State on August 5, 2004. Xentel America's deadline to renew that registration was May 14, 2005.

148. To date, Xentel America has not renewed that registration and therefore is not legally authorized to conduct any solicitations in Colorado.

Xentel America's Untimely Solicitation Registrations and Illegal Solicitations

149. Since its registration as a paid solicitor in Colorado, Xentel America has conducted eight solicitation campaigns in the state. Of these eight campaigns, not a single solicitation notice or campaign report was timely filed.

150. Xentel America has committed charitable fraud as defined by Colo. Rev. Stat. § 6-16-111 (2005). Specifically, Defendant has: (i) failed to register solicitation campaigns fifteen days prior to commencing the campaign; and (ii) failed to file campaign reports in a timely manner.

151. Further, because Defendant and the charities on whose behalf it conducted the solicitations did not comply with the CCSA at the times that Defendant solicited certain contributions in Colorado, and because it telephoned consumers who were listed on Colorado's No-Call list during those times, Defendant violated the No-Call Act.

152. A chart summarizing the information regarding these violations is attached hereto as Exhibit B.

A. Xentel America's Illegal Solicitation Campaign on Behalf of American Ex-Prisoners Of War Service Foundation

153. On December 8, 2004, Defendant initiated a solicitation campaign on behalf of the American Ex-Prisoners of War Service Foundation. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until February 23, 2005—two-and-a-half months after it began the campaign.

154. Any calls Xentel America made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

155. This campaign concluded on March 31, 2005. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel America was required to file a campaign report within ninety days after the conclusion of the campaign, which was June 29, 2005. Although Xentel America submitted a campaign report on June 27, 2005, it was not signed by the charity until July 12, 2005—two weeks after the deadline.

B. Xentel America's Illegal Solicitation Campaign on Behalf of the Colorado Jaycees

156. On December 8, 2004, Defendant initiated a solicitation campaign on behalf of the Colorado Jaycees. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until January 13, 2005—five weeks after it began the campaign.

157. Any calls Xentel America made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

158. This campaign concluded on March 31, 2005. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel America was required to file a campaign report within ninety days

after the conclusion of the campaign, which was June 29, 2005. Xentel America did not comply with this requirement and failed to file a campaign report until August 15, 2005—six weeks after the deadline. This report was not signed by the charity until November 30, 2005.

C. Xentel America's Illegal Solicitation Campaign on Behalf of Colorado Vietnam Veterans, Inc.

159. On December 8, 2004, Defendant initiated a solicitation campaign on behalf of Colorado Vietnam Veterans, Inc. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until March 2, 2005—nearly three months after it began the campaign. Further, the notice filed on March 2, 2005 was not accompanied by a certification statement from the charity, as required by Colo. Rev. Stat. § 6-16-104.6(7), until June 27, 2005—seven months after Defendant began the campaign.

160. Any calls Xentel America made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

161. This campaign concluded on March 31, 2005. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel America was required to file a campaign report within ninety days after the conclusion of the campaign, which was June 29, 2005. Xentel America did not comply with this requirement and failed to file a campaign report until July 15, 2005—six weeks after the deadline. This report was not signed by the charity until August 3, 2005.

D. Xentel America's Illegal Solicitation Campaigns on Behalf of International Law Enforcement Games, Inc.

162. On July 15, 2003, America Trade, which was since acquired by Xentel America, initiated a solicitation campaign on behalf of International Law Enforcement Games, Inc. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until July 16, 2003—the day after it began the campaign.

163. Any calls Xentel America made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

164. This campaign concluded on July 13, 2004. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel America was required to file a campaign report within ninety days after the conclusion of the campaign, which was October 11, 2004. Xentel America did not

comply with this requirement and failed to file a campaign report until November 11, 2004—a month after the deadline. This report was not signed by the charity until November 15, 2004.

165. On December 8, 2004, Defendant initiated a second solicitation campaign on behalf of International Law Enforcement Games, Inc. Defendant failed to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), and did not file the registration until November 30, 2004—just eight days before it began the campaign.

166. Any calls Xentel America made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

167. This campaign concluded on March 31, 2005. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel America was required to file a campaign report within ninety days after the conclusion of the campaign, which was June 29, 2005. Xentel America did not comply with this requirement and failed to file a campaign report until August 15, 2005—a month and a half after the deadline.

E. Xentel America's Illegal Solicitation Campaigns on Behalf of the Military Order of the Purple Heart Service Foundation, Inc.

168. On August 23, 2002, America Trade, which was since acquired by Xentel America, initiated a solicitation campaign on behalf of the Military Order of the Purple Heart Service Foundation, Inc. Defendant failed to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), and did not file the registration until August 15, 2002—eight days before it began the campaign.

169. Any calls Xentel America made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

170. This campaign concluded on August 22, 2004. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel America was required to file a campaign report within ninety days after the conclusion of the campaign, which was November 20, 2004. Xentel America did not comply with this requirement and failed to file a campaign report until November 24, 2004. That report was not signed by the charity until January 6, 2005—two months after the deadline.

171. Further, Colo. Rev. Stat. § 6-16-104.6(9) provides that if a solicitation campaign lasts for more than one year, a campaign report must also be filed on the anniversary of the commencement of the campaign. According to the notice filed by Defendant, this campaign lasted for two years, and thus it was also required to file a report on August 23, 2003, which it failed to do.

172. On August 23, 2003, America Trade, which was since acquired by Xentel America, initiated a second solicitation campaign on behalf of the Military Order of the Purple Heart Service Foundation, Inc. Not only did Defendant fail to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), but Defendant did not file the registration until August 27, 2003—four days after it began the campaign.

173. Any calls Xentel America made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

174. This campaign concluded on August 21, 2004. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel America was required to file a campaign report within ninety days after the conclusion of the campaign, which was November 19, 2004. Xentel America did not comply with this requirement and failed to file a campaign report until January 7, 2005—six weeks after the deadline. That report was not signed by the charity until January 10, 2005.

175. On December 8, 2004, Defendant initiated a third solicitation campaign on behalf of the Military Order of the Purple Heart Service Foundation, Inc. Defendant failed to register this campaign fifteen days in advance of commencing it as required by Colo. Rev. Stat. § 6-16-104.6(7), and did not file the registration until November 30, 2004—just eight days before it began the campaign.

176. Any calls Xentel America made prior to fifteen days after the date that the complete solicitation notice for this campaign was filed were made in violation of the CCSA. These calls were also in violation of the No-Call Act if they were made to Colorado residents who were on the No-Call list.

177. This campaign concluded on March 31, 2005. Pursuant to Colo. Rev. Stat. § 6-16-104.6(9), Xentel America was required to file a campaign report within ninety days after the conclusion of the campaign, which was June 29, 2005. Xentel America did not comply with this requirement and failed to file a campaign report until July 15, 2005—two weeks after the deadline. This report was not signed by the charity until July 19, 2005.

Defendants' Activities in Violation of the CCSA, CCPA, and No-Call Act

178. During the course of their business, vocation or occupation, Defendants violated Colo. Rev. Stat. § 6-16-111(1)(a), (f), and (g) and therefore committed charitable fraud by, among other things:

- a. Knowingly soliciting contributions while knowingly violating the provisions of Colo. Rev. Stat. §§ 6-16-104 to 6-16-107 and 6-16-110;
- b. Knowingly making misrepresentations of material fact in notices, reports, or records required to be filed, maintained, or created by the CCSA; and
- c. With intent to defraud, devising a scheme or artifice to defraud by means of a solicitation or obtaining money, property, or services by means of a false or fraudulent pretense, representation (including any manifestation of any assertion by words or conduct, including, but not limited to, a failure to disclose a material fact), or promise in the course of a solicitation.

179. During the course of their business, vocation or occupation, Defendants violated the CCSA by:

- a. failing to register solicitation campaigns fifteen days prior to commencing the campaign;
- b. conducting solicitations during time periods in which it did not have a registered solicitation campaign; and
- c. failing to file campaign reports in a timely manner.

180. By violating the Colorado Charitable Solicitations Act, Defendants have also violated the CCPA. Colo. Rev. Stat. § 6-16-111(5).

181. Defendants have also violated the No-Call Act by calling Colorado residents who have registered on the No-Call list, and by calling more than three such residents in a month. Defendants do not qualify for the exemption set forth in Colo. Rev. Stat. § 6-1-903(10)(b) because they failed to file campaign notices that were signed by the charities fifteen days prior to beginning solicitations in Colorado, as required by the statute. Colo. Rev. Stat. § 6-16-104.6(7).

FIRST CLAIM FOR RELIEF

(Failure to Register Solicitation Campaigns Fifteen Days Prior to Commencement)
(Against Defendant Xentel)

182. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 181 of this Complaint.

183. Through the above-described conduct in the course of its business, occupation or vocation, Xentel has violated the Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-104.6(7) and 6-16-111(1)(a) (2005), by failing to register forty-three solicitation campaigns in a timely manner.

184. The violations described in the preceding paragraph are also violations of the CCPA.

185. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from numerous Colorado consumers.

SECOND CLAIM FOR RELIEF

(Failure to Register Solicitation Campaigns Fifteen Days Prior to Commencement)
(Against Defendant Xentel America)

186. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 185 of this Complaint.

187. Through the above-described conduct in the course of its business, occupation or vocation, Defendant Xentel America has violated the Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-104.6(7) and 6-16-111(1)(a) (2005), by failing to register all eight of its solicitation campaigns in a timely manner.

188. The violations described in the preceding paragraph are also violations of the CCPA.

189. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from numerous Colorado consumers.

THIRD CLAIM FOR RELIEF

(Failure to File Campaign Reports Within Ninety Days of Conclusion)
(Against Defendant Xentel)

190. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 189 of this Complaint.

191. Through the above-described conduct in the course of its business, occupation or vocation, Defendant Xentel has violated the Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-104.6(9) and 6-16-111(1)(a) (2005), by failing to file eighteen campaign reports in a timely manner and by failing to obtain the charity's signature on another four reports in a timely manner.

192. The violations described in the preceding paragraph are also violations of the CCPA. Colo. Rev. Stat. § 6-16-111(5).

193. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from numerous Colorado consumers.

FOURTH CLAIM FOR RELIEF

(Failure to File Campaign Reports Within Ninety Days of Conclusion)
(Against Defendant Xentel America)

194. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 193 of this Complaint.

195. Through the above-described conduct in the course of its business, occupation or vocation, Defendant Xentel America has violated the Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-104.6(9) and 6-16-111(1)(a) (2005), by failing to file eight campaign reports in a timely manner.

196. The violations described in the preceding paragraph are also violations of the CCPA. Colo. Rev. Stat. § 6-16-111(5).

197. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from numerous Colorado consumers.

FIFTH CLAIM FOR RELIEF
(Conducting Solicitations Without Registering a Campaign)
(Against Defendant Xentel)

198. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 197 of this Complaint.

199. Through the above-described conduct in the course of their business, occupation or vocation, Defendant Xentel has violated the Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-104.6(7), 6-16-111(1)(a), 6-16-111(1)(f), and 6-16-111(1)(g) (2005), by conducting solicitations on behalf of the Fraternal Order of Police Colorado Metroplex, International Law Enforcement Games, Inc., the National Cancer Coalition, and the National Wheelchair Basketball Association during time periods for which no campaign was ever registered.

200. The violations described in the preceding paragraph are also violations of the CCPA. Colo. Rev. Stat. § 6-16-111(5).

201. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from numerous Colorado consumers.

SIXTH CLAIM OF RELIEF
(Violations of the No-Call Act)

202. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 201 of this Complaint.

203. Through the above-described conduct in the course of its business, occupation or vocation, by telephoning consumers listed on Colorado's no-call list, Defendants have violated Colo. Rev. Stat. § 6-1-904(1)(a) in conducting campaigns on behalf of the following charities: the Fraternal Order of Police Colorado Metroplex, International Law Enforcement Games, Inc., the National Cancer Coalition, and the National Wheelchair Basketball Association. More than three of these calls per month were made to Colorado consumers' residential telephone or wireless numbers registered on the Colorado No-Call List.

204. The violations described in the preceding paragraph are also violations of the CCPA. Colo. Rev. Stat. § 6-1-906(1).

205. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from numerous Colorado consumers.

SEVENTH CLAIM OF RELIEF
(Violations of CCPA)

206. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 205 of this Complaint.

207. The conduct described in counts one through six above constitute a deceptive trade practices pursuant to Colo. Rev. Stat. §§ 6-1-906(1), 6-16-111(5), and 6-1-105(1)(hh), (tt).

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for judgment against the Defendants and the following relief:

A. An order declaring Defendants' above-described conduct to be in violation of the Colorado Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-104.6 and 6-16-111 (2005), Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-105(hh), (tt) (2005), and the No Call Act, Colo. Rev. Stat. §§ 6-1-904(1)(a) and 6-1-906(1) (2005).

B. An order permanently enjoining Defendants, their officers, directors, successors, assigns, agents, employees, and anyone in active concert or participation with Defendants with notice of such injunctive orders, from engaging in any deceptive trade practices as defined in and proscribed by the CCPA and as set forth in this Complaint.

C. Appropriate orders necessary to prevent Defendants' continued or future deceptive trade practices.

D. For a judgment in an amount to be determined at trial for restitution, disgorgement, or other equitable relief pursuant to Colo. Rev. Stat. § 6-1-110(1) (2005).

E. An order requiring Defendants to forfeit and pay to the General Fund of the State of Colorado, civil penalties in an amount not to exceed \$2,000 per violation pursuant to Colo. Rev. Stat. § 6-1-112(1) (2005), or \$10,000 per violation pursuant to Colo. Rev. Stat. § 6-1-112(3) (2005).

F. An order requiring Defendants to pay the costs and expenses of this action incurred by the Attorney General, including, but not limited to, Plaintiff's attorney fees, pursuant to Colo. Rev. Stat. § 6-1-113(4) (2005).

G. Any such further orders as the Court may deem just and proper to effectuate the purposes of the CCPA, the CCSA, and the No Call Act.

Dated this 29th day of August, 2006.

JOHN W. SUTHERS

Attorney General

/s

AMY L. PADDEN, 28372*
Assistant Attorney General

Consumer Protection Section
Attorneys for Plaintiff
*Counsel of Record

Pursuant to C.R.C.P. 121, § 1-26(9), the original of this document with original signatures is maintained in the offices of the Colorado Attorney General, 1525 Sherman Street, Denver, CO 80203, and will be made available for inspection by other parties or the Court upon request.